

REMARKS

Claims 1-6 are currently pending in the subject application, and are presently under consideration. Claims 1-11 are rejected. Claims 7- 11 have been cancelled. Favorable reconsideration of the application is requested in view of the amendments and comments herein.

I. Rejection of Claims 7-11 under 35 U.S.C. 112

Claims 7-11 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The rejection is moot in view of this amendment in which claims 7-11 have been cancelled.

II. Rejection of Claims 1-2 under 35 U.S.C. 102(e)

Claims 1-2 have been rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Pub. No. 2002/0147978 to Dolgonos et al (hereinafter, "Dolgonos").

In contrast to the assertion in the Office Action, Dolgonos does not anticipate claims 1-2. This position is demonstrated when the grounds for rejection and the teachings of Dolgonos are compared relative to what is recited in claim 1.

First, claim 1 recites a fiber-to-the-home (FTTH) system for a plurality of subscriber premises, whereas no such concept exists in the teachings of Dolgonos. In the system of Dolgonos no fiber reaches any home or subscriber units as the optical fiber ends at fibre nodes 15, which convert the optical signals into RF signals for transmission over the coaxial plant 17. Dolgonos, at para. [0025]. Despite this clear difference between the approach in Dolgonos and claim 1, the Office Action nonetheless contends that wireless subscriber units 20 and/or home unit 204 of Dolgonos correspond to the subscriber premises of claim 1. Office Action, page 3. Then the Office Action contradicts its own position by asserting that the claimed optical network terminal (ONT) of claim 1 is met by either the cable plant 14 or the fibre termination node 15 of Dolgonos. Office Action, page 3. Claim 1 recites that each of the plurality of subscriber premises includes an ONT, a receiving device and at least one digital home communications terminal (DHCT). Therefore, the arguments presented in the Office Action would require that each of the SUs 20 and home unit 204 of Dolgonos includes a cable plant 14 or fibre termination node 15. To the contrary, the teachings of Dolgonos demonstrate that cable plant 14 includes

one or more fibre nodes 15, each of which fibre nodes having a respective coaxial cable plant 17 extending therefrom for transmission of RF signals that have been converted by the fibre node. Dolgonos, para. [0025]. Moreover, the coaxial cable plant 17 is not part of the subscriber units 20 or home units 204, but instead the cable plant 17 delivers the RF signals to the home units 204 and to antenna nodes 16. Each of the antenna nodes 16 communicates with the wireless SUs 20. Dolgonos, para. [0026].

The grounds of rejection are even more tenuous when it is recalled that claim 1 also recites that the receiving device (of each of the plurality of subscriber premises) includes an Ethernet switch and a modulator operating with a claimed functional and structural interrelationship that is not disclosed in Dolgonos. The Office Action asserts that the claimed receiving device is met by the antenna node 16 of Dolgonos, referring to FIGS. 4 and 5 and para. [0026] to [0028] of Dolgonos. Again, as explained above, the antenna node 16 is not included at either the SU 20 or the home unit 204. In fact, as part of its rejection, the Office Action states that the antenna 16 has a transmit front end 54 as part of an OFDM transceiver 34 for modulating IP video and audio signals to provide RF signals in downstream channel to the wireless SU 20. See Office Action, page 4, lines 4-6. That is, if the antenna node 16 provides the wireless RF signals to the wireless subscriber unit 20, as stated in the Office Action, how can the TX front end 54 of the antenna node 16 be part of the SU 20 that receives the wireless signal? Applicant submits that this demonstrates that the position in the Office Action is not supported by the teachings of Dolgonos and appears internally inconsistent. For instance, Dolgonos teaches that one or more antenna nodes 16 service a wireless service area 206 for providing downstream coverage to subscriber units 20. Dolgonos, para. [0018] and [0026]. The wireless subscriber units 20 are further disclosed as including an OFDM modem for exchanging wireless transmissions with the antenna nodes. Dolgonos, FIG. 7 and corresponding description at para. [0031] to [0032]. However, the subscriber units 16 are not taught as including an optical network terminal or other features of the subscriber premises recited in claim 1.

Thus, when the overall characterization of Dolgonos in the Office Action is considered in its entirety, the characterization fails to support the anticipation rejection asserted with respect to claim 1. Applicants further submit that the teachings of Dolgonos are not enabling for the

combination of structural and functional features recited in claim 1. For the reasons explained above, Dolgonos does not anticipate claim 1.

Claim 2 depends from claim 1 and is patentable for at least the same reasons. Additionally, claim 2 recites further features of the receiving device. As explained above, the Office Action in its rejection of claim 1 purports that the antenna node 16 of Dolgonos corresponds to the receiving device of claim 1. While Dolgonos may teach that Internet ready devices, such as personal computers, located at subscriber homes 204 can communicate with the Internet, Dolgonos does not provide any teaching (or even a suggestion) that a receiving device, which as recited in claim 1 is included with other terminals of each of a plurality of subscriber premises, also provides IP data signals to a computer via a computer address. Instead, Dolgonos teaches that the antenna nodes 16 are remotely located and separate from the wireless subscriber units 20 that they service in a given wireless service area 206a or 206b. Accordingly, claim 2 is not anticipated by Dolgonos.

For the reasons discussed above, claims 1 and 2 are not anticipated by Dolgonos and withdrawal of this rejection and allowance of claims 1 and 2 are respectfully requested.

III. Rejection of Claims 3, 7 and 8 under 35 U.S.C. 103(a)

Claims 3, 7 and 8 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Dolgonos in view of US Patent No. 7,190,901 to Farmer et al. (hereinafter, "Farmer"). Applicant traverses this rejection for the following reasons.

The Office Action relies on Farmer citing Col. 17, lines 39-54. However, the addition of this teaching from Farmer does not cure the admitted deficiencies of Dolgonos relative to claim 3. Additionally, as discussed above with respect to claim 1, Dolgonos fails to teach that each of a plurality of subscriber premises includes a receiving device that includes *inter alia* an optical network terminal (ONT). Moreover, the teachings in Farmer relating to the use of a subscriber optical interface 140 that can interface to an IP phone via an interface 555 is not compatible with the teachings of Dolgonos relied on to reject claim 1. This incompatibility stems from the stated purpose of Dolgonos being to provide for wireless high speed Internet and video services using existing cable TV network infrastructure as part of the communications path (Dolgonos, para. [0003]) and the FTTH system shown and described in Farmer. Moreover, it must be recalled the Examiner has already admitted that Farmer fails to disclose a receiving device that includes a

modulator for receiving and modulating IP signals in a downstream path. See Office Action dated September 21, 2007, at page 4. Since the combined teachings still fails to teach the combination of structural and functional features recited in claim 1 (from which claim 3 depends) and no other evidence has been presented sufficient to support the legal conclusion of obviousness, the rejection of claim 3 must be withdrawn.

The rejection of claims 7 and 8 is moot in view of the cancellation of such claims.

IV. Rejection of Claims 4-6 and 9-11 under 35 U.S.C. 103(a)

Claims 4-6 and 9-11 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Dolgonos and Farmer in view of US Patent No. 5,481,542 to Logston et al. (hereinafter, "Logston"). Applicant traverses this rejection for the following reasons.

Regarding claim 4, the Office Action asserts that the antenna node 16 corresponds to the receiving device. However, as explained with respect to claim 1, the antenna nodes 16 are not included with each of the subscriber premises, but instead send and receive signals to and from wireless subscriber units 20. The Office Action even admits that the antenna nodes receive signals from the subscriber units, further demonstrating that the structure the Office Action relies on for the receiving device of claim 4 cannot be included in the subscriber units 20. The Office Action, at page 8, further relies on the cable plant 14 and fibre node 15 as correspond to the ONT of claim 1, which claim 4 recites as converting the Ethernet signals to optical signals. The Office Action further asserts that the distribution hub 12 of Dolgonos further performs the transmission of the optical signals to the head end, which claim 4 recites is performed by the ONT (in the receiving device of the subscriber premises per claim 1). However, according to the teachings of Dolgonos, the cable plant 14, the fibre node 15 and the hub 12 are not included in a receiving device of the subscriber premises as recited in claim 4. This fundamental difference cannot be overcome by skill in art and no other evidence has been presented to support this part of the Examiner's obviousness position.

As further support of its rejection, the Office Action (at page 8, last paragraph) contends that the antenna node 16 and subscriber modem 22 taught by Dolgonos correspond to the at least one DHCT that is recited in claim 4. However, as discussed above, the antenna node 16 is not part of a receiving device as recited in claim 1. Moreover, Dolgonos explicitly teaches that the

subscriber modem 22 is used for exchanging wireless transmissions with the antenna nodes. Dolgonos, para. [0031]. There is no teaching in Dolgonos or any other evidence in the record to support the contention that the subscriber modem receives RF signals from a modulator of a receiving device, as recited in claim 1 from which claim 4 depends.

The deficiencies of Dolgonos discussed above are not cured by the addition of Farmer and Logston. Additionally, it is noted that the Examiner has not applied any teaching from Farmer with respect to its rejection of claim 4. Due to such deficiencies and since the Office Action has articulated no rationale sufficient to support its obviousness position, this rejection should be withdrawn.

With respect to claim 5, the Office Action admits that Dolgonos is silent regarding additional features of the receiving device and relies on Farmer. The Office Action concludes it would be obvious to combine certain features of Farmer with the teachings of Dolgonos without providing a rational underpinning sufficient to support the legal conclusion of obviousness. It must be recalled that, as explained above with respect to claims 1 and 4, Dolgonos actually fails to teach the combination of structural and functional features of the receiving device of claims 1 and 4. Additionally, the system of Farmer seems to operate differently from the characterization in the Office Action and what is recited in claim 5. Specifically, the mention in Farmer (Col. 18, lines 51-67) that the RF packets can be formatted as Ethernet packets refers to a data stream from a data conditioner 407 - not converted by a microprocessor as recited in claim 5. For instance, Farmer teaches that the data conditioner transfers the RF packets upstream to the digital optical transmitter through the switch 513 that is controlled by the processor 550. Thus, even if the teachings of Farmer were combined (which combination Applicant believes is not proper), the combined teachings fail to teach or suggest what is recited in claim 5. The Office Action has not presented any further evidence or reasoning sufficient to support the legal conclusion of obviousness. Accordingly, reconsideration and allowance of claim 5 and claim 6 depending from claim 5 are respectfully requested.

The rejection of claims 9-11 is moot in view of the cancellation of such claims.

V. Conclusion

In view of the foregoing remarks, Applicant respectfully submits that the present application, which includes claims 1-6, is in condition for allowance. Applicant respectfully requests reconsideration of this application and that the application be passed to issue.

Should the Examiner have any questions concerning this paper, the Examiner is invited and encouraged to contact Applicant's undersigned attorney.

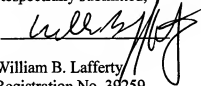
No additional fees should be due for this response. In the event any fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to Deposit Account No. 19-0761.

I hereby certify that this correspondence is being transmitted to the U.S. Patent and Trademark Office via electronic filing on October 7, 2008.

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SCIENTIFIC-ATLANTA
5030 Sugarloaf Parkway, M/S 4.3.516
Lawrenceville, GA 30044
(770) 236-3517

Respectfully submitted,



William B. Lafferty
Registration No. 39259